

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

**Irvine Neuro Rehabilitation
Petitioner**

File No. 21-1732

v

**Auto Club Insurance Association
Respondent**

**Issued and entered
this 17th day of February 2022
by Sarah Wohlford
Special Deputy Director**

ORDER

I. PROCEDURAL BACKGROUND

On November 11, 2021, Irvine Neuro Rehabilitation (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto Club Insurance Association (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner a bill denial on September 9, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 6, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 6, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 16, 2021. The Department issued a written notice of extension to both parties on January 12, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on December 27, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on July 20 and 27, 2021 and August 3, 2021. The Current Procedural Terminology (CPT) codes at issue include 97112 and 97116, which are described as neuromuscular re-education and gait training. In its *Explanation of Benefits* letter, the Respondent referenced Official Disability Guidelines (ODG) and stated that the medical records did not support the request for reimbursement as the injured person received “56 therapy sessions as of July 27, 2021 with ongoing deficits in lower extremity strength, core strength and functional mobility.”

With its appeal request, the Petitioner submitted supporting documentation which identified the injured person’s diagnoses as diffuse traumatic brain injury (TBI) with loss of consciousness of unspecified duration and sequela, surgical aftercare, chronic post-traumatic headache, not intractable, right leg pain, paresthesia of the skin, spastic hemiplegia affecting right dominant side, muscle spasm, joint stiffness, difficulty in walking, and gait and mobility abnormalities. The Petitioner indicated that the injured person was involved in a motor vehicle accident (MVA) in January of 2019.

The Petitioner’s request for an appeal stated:

The complexity of [the injured person’s] neurologic injuries with a significant TBI requires ongoing skilled therapy to address deficits with balance, gait, strength, neuromuscular and cognitive function. [The injured person’s] severe safety limitations due to multiple and complex injury-related deficits establish a vital need for skilled therapeutic services to reduce the risk of additional functional decline leading to increased burden of medical care.

In its reply, the Respondent reaffirmed its position and referenced the American College of Occupational and Environmental Medicine (ACOEM) guidelines for traumatic brain injury disorder and ODG guidelines for head conditions. The Respondent stated in its reply:

Additional medicals have been received and reviewed. In accordance with ACOEM and ODG, up to 48 sessions of Physical therapy over 8-16 weeks can be recommended. The medical records do not support this request as per the documentation, 58 sessions of therapy have been provided since 1/28/2020 [in relation to the injured person’s diagnoses.]...Subjective documentation includes “pain in session and headaches,” improved gait, and poor attendance, were also noted per therapist. The additional physical therapy exceeds ACOEM and ODG guideline recommendations for well over 16 weeks of sessions have been provided, and opportunity has been given to establish a home exercise, independent, program.

III. ANALYSIS

Director’s Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a practicing physical therapist with knowledge in the care of individuals involved in a motor vehicle accident with TBI and related functional and physical deficits. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on the American Physical Therapy Association (APTA) guidelines and the Academy of Neurological Physical Therapy (ANPT) guidelines for its recommendation.

The IRO reviewer explained that the injured person suffered a TBI with loss of consciousness from the MVA and noted that she underwent "extensive physical therapy and has shown improvement." However, the IRO reviewer explained that "neuromuscular re-education has not been shown to improve an injured person's condition status post TBI." The IRO reviewer stated that "the injured person's current functional status does not indicate a need or clinical necessity" for neuromuscular re-education.

More specifically, the IRO reviewer stated:

The APTA and ANPT are the most appropriate guidelines for the physical therapy treatments at issue. These guidelines support treatment of injured persons in the outpatient setting with this diagnosis and impairment sequela. However, given the injured person's chronic condition and current functional level, there is little to no evidence that neuromuscular (NM) re-education is beneficial to injured persons with chronic brain injuries...NM re-education is not recommended for patients based on their recovery level and time from injury.

The IRO reviewer further explained that the treatments at issue were overutilized beyond the guideline recommendation of 2-3 times per week for a range of 12-16 weeks. The IRO reviewer opined:

Furthermore, given [the injured person's] current condition, it was not necessary that she receive physical therapy even at a maintenance level. Her functional status was adequate enough to not be at a high risk for hospital admission and increased burden of care.

The IRO reviewer recommended that the Director uphold the Respondent's determination that the physical therapy treatments provided to the injured person on July 20 and 27, 2021 and August 3, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).


IV. ORDER

The Director upholds the Respondent's determination dated September 9, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X 

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford